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8 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA
9

JOSETTE HERNANDEZ,)	
)	CASE NO.
Plaintiff,)	
)	
vs.)	
)	
WESTSTATES PROPERTY)	
MANAGEMENT,)	
OVERTON ASSOCIATES, LP,)	
FREDDY LUDENA, and)	
ALMA LOPEZ,)	
)	
Defendants.)	
)	

17 **COMPLAINT**

18 The plaintiff, JOSETTE HERNANDEZ ("Hernandez"), by and through her attorney,
19 hereby alleges upon information and belief as follows:

- 20 1. This is a civil action seeking monetary damages, civil penalties, punitive damages,
21 and injunctive relief brought by the United States to enforce the Fair Housing Act,
22 Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing
23 Amendments act of 1988, 42. U.S.C. §§3601, *et seq.*
24

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 28 U.S.C. §§1331, 1343(a)(3), because Plaintiff's claims arise under the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments act of 1988, 42 U.S.C. §§3601, *et seq.*
3. Venue is proper under 28 U.S.C. §1391(b) because the actions giving rise to the Plaintiff's allegations occurred in this district, the subject properties are located in this district, and Defendants reside and/or do business in this district.

PARTIES

4. Plaintiff, Josette Hernandez ("Hernandez"), is a resident in a housing complex subsidized by the U.S. Department of Agriculture's Rural Development program Shadowcreek located at 350 West Ryan Avenue #D202, Overton, Nevada.
5. Defendant Overton Associates L P ("Overton") is a "domestic limited partnership" existing and authorized under Nevada Revised Statutes 88.350, *et seq.*
6. At all relevant times relevant to this action Defendant Overton Associates L P was the owner of the residential rental property Shadowcreek Apartments ("Shadowcreek") located at 350 West Ryan Avenue #D202, Overton, Nevada.
7. As the owner of Shadowcreek, Defendant Overton receives a federal subsidy from the U. S. Department of Agriculture's Rural Development Program.
8. Defendant Weststates Property Management Co. holds itself out as a property management company licensed to do business in Nevada and located in Elko Nevada.

1 9. At all relevant times relevant to this action Defendant Weststates was employed as
2 the property management company of the residential rental property Shadowcreek
3 Apartments located at 350 West Ryan Avenue #D202, Overton, Nevada.

4 10. Defendant Freddy Ludena, also known as Freddy Lopez, resides within this district.

5 11. At all times relevant to this action Defendant Ludena has been employed as the
6 maintenance man at Shadowcreek.

7 12. Defendant Alma Lopez resides within this district.

8 13. At all times relevant to this action, Defendant Lopez has been employed as the
9 property manager at Shadowcreek.

10 14. The rental units at Shadowcreek are “dwellings” within the meaning of 42 U.S.C. §
11 3602(b).

12 **BACKGROUND**

13 16. Hernandez commenced her tenancy at Shadowcreek Apartments I (“Shadowcreek”),
14 350 West Ryan Avenue #D202, Overton, Nevada on or about September 18, 2012.

15 17. For the past year and a half, Hernandez has been the victim of repeated sexual
16 harassment by Ludena, the maintenance man at Shadowcreek. Ludena is also
17 married to the property manager of Shadowcreek, Alma Lopez (“Lopez”).

18 18. Hernandez has previously complained to Lopez in person and via email about
19 Ludena’s actions, but Lopez dismissed all allegations against Ludena, who is her co-
20 worker, husband and father of her children.

21 19. Due to her distrust of Ludena and Lopez, Hernandez has attempted to avoid contact
22 with Shadowcreek staff for the past year and a half. As a result, Lopez has issued
23 several lease violation notices to Hernandez, including the following: August 15,
24

1 2013, missed appointment for annual recertification; August 15, 2013, missed
2 appointment for maintenance; April 2, 2014, smoke alarm problem; September 13,
3 2014, missed appointment with maintenance.

4 20. On October 30, 2014, Lopez issued a 5-Day Notice to Quit for Violation of Rental
5 Agreement against Hernandez for "several violations of lease." Hernandez promptly
6 filed her Tenant's Answer in Opposition to Summary Eviction with the Justice Court
7 of Moapa Valley on November 4, 2014.

8 21. On November 5, 2014, Hernandez completed a voluntary statement before
9 officer Jackson of Las Vegas Metropolitan Police. On November 12, 2014,
10 Hernandez filed an Application for Order for Protection Against Stalking,
11 Aggravated Stalking, or Harassment (NRS 200.591) with the Justice Court of
12 Moapa Valley. In her court documents, Hernandez alleged the following:

- 13 a. Ludena entered Hernandez's unit while she was asleep using his keys
14 as the maintenance man and laid down on top of her with his pants
15 down;
- 16 b. Ludena repeatedly offered Hernandez money, pills and McDonald's in
17 exchange for sex;
- 18 c. Ludena repeatedly followed Hernandez in his vehicle while she was
19 walking.
- 20 d. Ludena repeatedly whistled at Hernandez and asked her to go out with
21 him;
- 22 e. Ludena put his hands on Hernandez and ripped off clothing when she
23 attempted to get away;
- 24

1 f. Ludena pushed his way into Hernandez's unit when she answers her
2 door;

3 g. Ludena promised to keep her safe from Lopez in exchange for sex;

4 h. Ludena threatened to evict Hernandez unless she has sex with him;

5 i. Ludena made obscene gestures at Hernandez.

6 22. On November 19, 2014, the Justice Court of Moapa Valley held a hearing on
7 Hernandez' application for a TRO. The hearing was continued until December 3,
8 2014.

9 23. Moapa Justice Court held the continued hearing on December 3, 2014. At that
10 hearing, two witnesses, Laurie Axe and Pennie Miranda, both testified in court that
11 Freddy Ludena stalked and harassed them for months.

12 24. Laurie Axe ("Axe"), a former tenant at Shadowcreek, testified that Freddy Ludena
13 once pushed his way into her unit, slammed her against the wall and started kissing
14 her.

15 25. Pennie Miranda ("Miranda") testified that Ludena somehow obtained her phone
16 number and address even though she never resided at Shadowcreek and would only
17 visit her friends there. She testified that in the summer of 2013, Ludena entered her
18 home in nearby Logandale, Nevada, and raped her.

19 26. Miranda testified that she called the police and underwent DNA testing but never
20 pressed charges because she did not feel emotionally capable of doing so. Miranda
21 also provided cell phone logs where Ludena continued to call her a before days
22 before the hearing.

1 27. On December 3, 2014, the court ordered a one-year protective order in favor of
2 Hernandez and against Ludena.

3 28. After the hearing, counsel for Hernandez, Ron Sung, Esq., submitted a HUD
4 complaint against Shadow Creek.

5 29. Counsel also informed Kelly Steninger of Weststates Property Management about
6 the allegations and protective order entered against Ludens.

7 30. At the time of filing this complaint, Ludena continues to work at Shadowcreek.

8 31. On December 11, 2014, the Justice Court of Moapa Valley granted a summary
9 eviction against Hernandez without a hearing. Hernandez's eviction is scheduled for
10 5:00 p.m. on December 12, 2014.

11 32. Defendant Overton by and through its agent Weststates Property Management Co. is
12 and has been aware of Ludena's conduct, condones Ludena's conduct, and has
13 refused to take any meaningful steps to address the allegations, despite receiving
14 multiple complaints of sexual harassment.

15 **CAUSE OF ACTION**

16 33. Defendants have violated the Fair Housing Act, 42 U.S.C. §3601, et seq. by
17 discriminating against Plaintiff on the basis of sex in connection with the rental of
18 the properties.

19 34. Since Plaintiff has resided in the unit, Defendants have subjected Plaintiff to severe,
20 unwelcome, and pervasive sexual harassment, thereby creating a hostile
21 environment for female tenants and/or amounting to quid pro quo harassment.

22 35. Defendants also took adverse actions against Plaintiff when she attempted to report
23 the harassment.
24

1 36. Defendants Overton and Weststates are responsible for the conduct of its agents
2 Ludena and Lopez. Defendants Overton or Weststates knew or should have known
3 of the discriminatory conduct of Ludena and Lopez, yet failed to take reasonable or
4 corrective measures.

5 37. The Defendant's conduct described herein constitutes:

- 6 a. A denial of housing or making housing unavailable because of sex, in
7 violation of Section 804(a) of the Fair Housing Act, 42 U.S.C. §3604(a);
8 b. Discrimination in the terms, conditions, or privileges of the rental of
9 dwellings, or in the provision of services or facilities in connection therewith,
10 because of sex, in violation of Section 804(b) of the Fair Housing Act, 42
11 U.S.C. §3604(b);
12 c. The making of statements with respect to the rental of dwellings that indicate
13 a preference, limitation, or discrimination based on sex, in violation of
14 Section 804(c) of the Fair Housing Act, 42 U.S.C. §3604(c), and
15 d. Coercion, intimidation, threats or interference with persons in the exercise or
16 enjoyment of or on account of their having exercised or enjoyed, or on
17 account of their having aided or encouraged another person in the exercise or
18 enjoyment of their rights under Section 808 of the Fair Housing Act, in
19 violation of Section 818 of the Fair Housing Act, 42 U.S.C. §3617.

20 38. Plaintiff has been injured by Defendants' discriminatory conduct. Plaintiff is an
21 aggrieved person as defined in 42 U.S.C. §3602(i), and has suffered damages as a
22 result of Defendant's conduct.
23
24

39. The Defendant's conduct was intentional, willful, and/or taken in reckless disregard for the rights of others.

PRAYER FOR RELIEF

Wherefore, Plaintiff requests that the Court enter and Order that:

- A. Declares the Defendant's discriminatory practices violate the Fair Housing Act, as amended, 42 U.S.C. §§3601 et. seq.;
- B. Enjoins the Defendants, their agents, employees, and successors, and all other persons in the active concert of participation with them from:
 - a. Discriminating on account of sex, including by engaging in sexual harassment, against any person in any aspect of the rental of a dwelling;
 - b. Interfering with or threatening to take any action against any person in the exercise or enjoyment of rights granted or protected by the Fair Housing Act, as amended; and
 - c. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of Defendant's past unlawful practices to the position they would have been in but for the discriminatory conduct;
- C. Awards monetary damages, including punitive damages, to Plaintiff;
- D. Awards Plaintiff reasonable attorney's fees;
- E. Any such other and additional relief as the Court deems proper.

DATED this 12 day of December 2014.

Respectfully submitted,
NEVADA LEGAL SERVICES, INC.

By: 

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CERTIFICATE AS TO INTERESTED PARTIES

The undersigned, counsel of record for Josette Hernandez, certifies that the following have an interest in the outcome of this case:

Overton Associates L P, Defendant in this matter;

Weststates Property Management Company, Defendant in this matter;

Freddy Ludena, Defendant in this matter;

Alma Lopez, Defendant in this matter.

These representations are made to enable judges of the Court to evaluate possible disqualifications.

Signature, Attorneys of record for Josette Hernandez:

By: 

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